

Local Improvement Districts

"Are We Having Fun Yet?"

By John Carpita, MRSC Public Works Consultant

LIDs are more fun than... root canals without novocaine... a three- month visit from your in-laws... balancing city budgets...

Did you hear about the finance director who, through an extremely astute investment, increased the cash value of the city's investment portfolio by \$3 million? When asked how the city would spend this unexpected windfall, he said: "Well, I guess we'll just keep on doing LIDs (Local Improvement Districts) until it's all gone."

The preceding is more theatrical than actual, as LIDs do not become a drain on a city's general fund unless something goes really wrong. LIDs, however, do have a reputation as difficult to administer, time consuming and a public relations disaster waiting to happen.

LIDs can play a very positive and powerful role in developing and enhancing your city's infrastructure. In this article, we'll examine a few aspects of this uniquely American method of funding infrastructure improvements and how to ensure a worry-free LID financed project. A related article discusses the basics of LID formation and assessments on page 6. Resources for assistance or training are described in the LID Resources sidebar on page 3.

What is an LID or ULID?

Local Improvement Districts (LIDs) are a means of assisting benefitting properties in financing needed capital improvements through the formation of special assessment districts. A variation of the LID is the Utility Local Improvement District (ULID).

These special assessment districts permit improvements to be financed and paid for over a period of time through assessments on the benefitting properties. The difference between ULIDs and LIDs is that utility revenues are pledged to the repayment of the ULID debt, in addition to the assessments on the benefitting properties. State statutes provide that an LID can be converted to a ULID after formation; the reverse is not possible.

LIDs are Only Financing Tools

The most important point to realize about LIDs is that the entire LID process is about financing infrastructure improvements, not constructing them. Nowhere in the LID statutes will you find information on technical feasibility, design, cost estimates, construction management expertise and project closeout requirements. It is assumed that a city will do a superb job of design, estimates and construction management for the infrastructure improvement, just as for any other project not financed by an LID.

LID processes lead, ultimately, to the sale of bonds to investors and the retirement of those bonds via annual payments by the property owners within a district. Goals of the LID process are twofold: to present a bond portfolio to investors that will entice them to invest at as low a rate of return as possible; and to assess property owners as fairly as possible in relation to the special benefit received.

LIDs take money to administer. Interim financing incurs interest costs. Bond sales involve bond counsel, underwriters and other expenses. All these expenditures must be added to the share of project costs that LID participants are expected to assume. Unless reminded at times through the process, LID participants may unfairly compare project costs from other, non-LID projects to the total cost to be assessed.

LIDs are Personal

LIDs are very personal. Projects not funded by LIDs may be controversial, cause traffic disruptions and generally make people irate. An LID asks them to not only put up with a project they may not like personally and will disrupt their lives, but also to pay for it. Even if they are in favor of the project, they are going to be more interested in the project and cost issues than they would be if they had no personal financial stake.

Early involvement of as many potential LID participants as possible in the beginning stages of a project is a necessity. Informal meetings to discuss potential project scope, benefit area and concerns will not only give the participants a sense of being involved but may also help you to determine whether an LID will be feasible. Continued involvement of LID participants via participation in a steering committee during the environmental review and design stages will help the project team avoid unnecessary disruption to adjoining property owners. When the LID formation hearing is scheduled, project staff should be very open to individual or group meetings to explain overall LID processes and the type of testimony that is appropriate at the formation hearing.

During construction, informal meetings or mailings to each LID participant at least monthly will keep your public relations star shining bright. Be sure to include financial information, good or bad. When the final assessment roll hearing is scheduled, project staff should, again, be very open to individual or group meetings to explain the assessment roll and the sort of testimony that is appropriate at the hearing.

LIDs are Complicated and Require a Cast of Thousands

LIDs are not the most complicated thing in the world (programming a VCR is much harder), but do require attention to detail and processes. Checklists and flowcharts are very useful, perhaps even essential. Several cities have provided MRSC with samples, so there is no need to develop your own from scratch. Project management software for personal computers is also available.

Participants in the LID process include property owners and the general public, public works staff, finance department staff, the city clerk, the mayor, council, city attorney, investment

bankers, underwriters, financial advisors, engineers/architects, real estate appraisers and bond counsel. One person on staff must be designated as the LID Administrator. This person should not be a department head, simply because of the amount of detail work required. The LID Administrator can certainly have other duties, but should not be overloaded. Training is important (see LID Resources sidebar). Computer skills are essential, particularly in electronic spreadsheets and word processing. Superhuman powers are useful, as leaping over tall buildings to escape irate property owners may be necessary.

LIDs Don't Have to Create Hardships

Of legitimate concern are senior citizens and those who are economically disadvantaged. No councilperson wants to vote for a project that will put someone out of their home. Two deferrals are referenced in the statutes. RCW 84.38 provides for assessments to be deferred indefinitely for qualified senior citizens. RCW 35.43.250 and 35.54.100 provide for a deferral of up to four years for economically disadvantaged property owners, as defined in the formation ordinance. In both of these cases, the deferred assessment does not go away, but becomes a lien against the property. Other options for property owner relief may be available (see LID Resources).

Deferrals and other options for relief should be publicized early in the process, with a concerted effort made to identify those who may need such relief. Elected officials also need to know these options so that they can advise citizens who may call them. Reference these options in the public hearings and enter any documentation available regarding your efforts to identify property owners eligible for deferrals.

LID Assessments are Subject to Strict Criteria

Statutes specify that the assessment per parcel must not exceed the special benefit of the improvement to that parcel, which is defined as the difference between the fair market value of the property before and after the local improvement project. In addition, the assessments must be proportionate to one another. A corollary to these principles is that property not benefitted by the improvements may not be assessed. No matter what assessment method is used - per parcel, front foot, area, zone termini, traffic volumes, special benefit appraisal, etc. - the courts will be concerned only with these criteria. Even if a project lends itself very well to a front footage assessment (i.e., uniform lots, similar zoning) or is not large enough to warrant a full-blown special benefit analysis (see the LID Basics article), it is wise to check a few strategic parcels with a limited appraisal. This will prevent unpleasant surprises at the final assessment roll hearing.

LID Hearings are Quasi-Judicial

Cities should do their absolute best to work with property owners and resolve their concerns. Lawsuits can happen despite a city's best efforts to do so. Statutory limitations and fairness to other property owners prevent a city from giving in to an individual property owner's every demand. Formation hearings and final assessment roll hearings should be conducted with possible litigation in mind. Formal rules of quasi-judicial procedure should be formulated and

distributed to the council and LID participants well in advance of the hearings. Particularly in the final assessment roll hearing, the city council acts as a judge, or more correctly a board of equalization, to consider evidence presented by both staff and property owner as to the correctness of the assessment for each parcel. The hearing must be fair, open, impartial and structured.

LID Resources

Of considerable assistance to Washington cities and towns to date has been an LID - RID Procedure Manual prepared by AWC and the Washington Chapter of APWA. MRSC, APWA and AWC have joined forces to revise the Manual and to create an electronic database of information and sample documents on MRSC Online and on MRSC's upcoming Web site. MRSC has numerous publications, sample ordinances and forms in its Library and files. Examples include:

- Citizen's Involvement Plan in matrix form - City of Issaquah
- Deferral Options and Mitigation Agreements - City of Issaquah
- Financing LIDs - Steve Gaidos
- LID Practices and Procedures - Lee Vorhees
- Sample Information Brochures - several cities
- LID Checklist - City of Redmond
- LID Closeout Process (Microsoft Project) - City of Issaquah

MRSC has also coordinated an on-call LID resource panel for workshop sessions with elected municipal officials and staff statewide. These workshop sessions could be with individual cities or groups of cities, or in conjunction with conventions or meetings of groups involving city attorneys, finance directors, city managers and city clerks. On-site visits by individual team members to discuss specific issues or projects can also be arranged for nominal fees.

Please call John Carpita, MRSC Public Works Consultant, if you have questions about available LID resources.

LID Basics 101

How are LIDs formed?

There are two distinct methods of forming LIDs, namely:

1. The resolution of intention method which allows the legislative body of a municipality to initiate an LID; and
 2. The petition method which allows property owners to petition their city to initiate an LID.
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What are the general procedures to form an LID?

LIDs are most often formed by the Resolution of Intention method. The city is made aware that a capital improvement project is desired through letters, telephone conversations, public testimony, regulatory requirements, etc. The city should evaluate the potential project and its need and estimated costs. Then the general steps leading toward formation by the Resolution of Intention method would be:

1. Determination of property owner support through a postcard survey or informal petition.
2. If support exists, a general informational meeting is held to present the extent of the project, the estimated total cost, and the estimated assessment upon each benefitted property.
3. If support exists, an environmental checklist should be prepared and the effect of the project on the environment determined.
4. A preliminary assessment map and preliminary assessment roll is prepared.
5. A resolution is prepared declaring the intention of the legislative body to order the improvement, and setting a date for a formation hearing of the proposed LID.
6. RCW 35.43.140 requires that notice be given by mail at least 15 days prior to the date fixed for the hearing to all benefitted (or assessed) property owners. A period of three to four weeks is normally provided.
7. The resolution is published for two consecutive weeks in the official newspaper, with the first publication at least 15 days prior to the hearing date.
8. An ordinance forming the LID is prepared and reviewed by the city attorney and bond counsel.
9. Usually the formation ordinance is submitted to the legislative body in sufficient time to permit their final action on the formation ordinance at the formation hearing, should they choose to proceed with the project.

How is an LID formed by the petition method?

The petition method permits property owners to initiate the formation of an LID. The steps are essentially the same, except that:

1. An informal petition of at least 10 percent of the benefitting properties is submitted to the city for its review and approval.
2. If needed, the city usually prepares a formal petition for circulation by those submitting the initial petition.

3. The formal petition, when executed by a majority of the assessed property owners in the proposed assessment district, is submitted to the legislative body.
4. Subsequent procedures are similar to items 3 through 9 above.

What percentage of property owners may stop an LID formation?

After passage of the ordinance creating the LID, there is provided a 30-day protest period, during which written protests may be submitted by property owners. If property owners representing 60 percent of the dollar amount assessed within the district file written protests, the LID may not be formed. (RCW 35.43.180). It should be noted that the city is obligated to expend time and monies in the development of the LID design, cost estimate, formula for the assessment of project costs, and the scheduling and mailing of project notices. If the LID is formed and the project is funded, the city is reimbursed for the funds expended, since they are part of project costs. However, if the LID is halted by protests, the expended time and monies are not reimbursable. Therefore, it is prudent for the city to be reasonably certain that the proposed LID is acceptable to the benefitting property owners and that they are willing to absorb the assessment before proceeding with the formation hearing.

What are criteria for LID formation?

The nature of an LID is defined by the land uses of the benefited properties and the estimated cost of the planned improvements. Cities have wide discretion in establishing boundaries for an LID.

Statutes specify that the assessment per parcel must not exceed the benefit of the improvement to that parcel. A ratio of benefit to assessment of 1.5 or more is desirable, as it makes potential investors more comfortable with purchasing bonds. In addition, the assessments must be proportionate to one another.

What are LID assessment alternatives?

RCW 35.44.030 and 35.44.040 relate to the application of the zone and termini method of assessment. Attention should also be given to RCW 35.44.047, which provides that a city or town may use any other method or combination of methods to compute assessments which the city may deem to more fairly reflect the special benefits to the properties being assessed.

Regardless of the assessment method(s) chosen, the above described criteria regarding assessment benefit ratios and proportionality apply. Many cities use the Special Benefit Analysis method of establishing assessments for all but the most straightforward projects. In the Special Benefit Analysis method, a certified appraiser calculates the value of each parcel with and without the infrastructure improvement project. The difference between the two values is the special benefit. The portion of project costs assignable to the LID is then divided by the total of all special benefits. This ratio is then applied to the special benefit of each parcel to determine the assessment for each parcel.

*Slightly Different for Counties -
See RCW 36.94.240*

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Local Improvement District (LID) Flow Chart



